

1 AN ACT concerning long-term care facility residents.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 5. The Abused and Neglected Long Term Care
5 Facility Residents Reporting Act is amended by changing
6 Sections 3, 6.2, and 6.6 as follows:

7 (210 ILCS 30/3) (from Ch. 111 1/2, par. 4163)

8 Sec. 3. As used in this Act unless the context otherwise
9 requires:

10 a. "Department" means the Department of Public Health of
11 the State of Illinois.

12 b. "Resident" means a person residing in and receiving
13 personal care from a long term care facility, or residing in
14 a mental health facility or developmental disability facility
15 as defined in the Mental Health and Developmental
16 Disabilities Code.

17 c. "Long term care facility" has the same meaning
18 ascribed to such term in the Nursing Home Care Act, except
19 that the term as used in this Act shall include any mental
20 health facility or developmental disability facility as
21 defined in the Mental Health and Developmental Disabilities
22 Code.

23 d. "Abuse" means any physical injury, sexual abuse, or
24 mental injury inflicted on a resident other than by
25 accidental means or by use of reasonable force necessary to
26 protect the resident or others from injury.

27 e. "Neglect" means a failure in a long term care
28 facility to provide adequate medical or personal care or
29 maintenance, which failure results in physical or mental
30 injury to a resident or in the deterioration of a resident's
31 physical or mental condition.

1 f. "Protective services" means services provided to a
2 resident who has been abused or neglected, which may include,
3 but are not limited to alternative temporary institutional
4 placement, nursing care, counseling, other social services
5 provided at the nursing home where the resident resides or at
6 some other facility, personal care and such protective
7 services of voluntary agencies as are available.

8 g. Unless the context otherwise requires, direct or
9 indirect references in this Act to the programs, personnel,
10 facilities, services, service providers, or service
11 recipients of the Department of Human Services shall be
12 construed to refer only to those programs, personnel,
13 facilities, services, service providers, or service
14 recipients that pertain to the Department of Human Services'
15 mental health and developmental disabilities functions.

16 (Source: P.A. 89-507, eff. 7-1-97.)

17 (210 ILCS 30/6.2) (from Ch. 111 1/2, par. 4166.2)

18 (Section scheduled to be repealed on January 1, 2002)

19 Sec. 6.2. Inspector General.

20 (a) The Governor shall appoint, and the Senate shall
21 confirm, an Inspector General who shall function within the
22 Department of Human Services and report to the Secretary of
23 Human Services and the Governor. The Inspector General shall
24 investigate reports of suspected abuse or neglect (as those
25 terms are defined in Section 3 of this Act) of patients or
26 residents in any mental health or developmental disabilities
27 facility operated by the Department of Human Services and
28 shall have authority to investigate and take immediate action
29 on reports of abuse or neglect of recipients, whether
30 patients or residents, in any mental health or developmental
31 disabilities facility or program that is licensed or
32 certified by the Department of Human Services (as successor
33 to the Department of Mental Health and Developmental

1 Disabilities) or that is funded by the Department of Human
2 Services (as successor to the Department of Mental Health and
3 Developmental Disabilities) and is not licensed or certified
4 by any agency of the State. At the specific, written request
5 of an agency of the State other than the Department of Human
6 Services (as successor to the Department of Mental Health and
7 Developmental Disabilities), the Inspector General may
8 cooperate in investigating reports of abuse and neglect of
9 persons with mental illness or persons with developmental
10 disabilities. The Inspector General shall have no
11 supervision over or involvement in routine, programmatic,
12 licensure, or certification operations of the Department of
13 Human Services or any of its funded agencies.

14 The Inspector General shall promulgate rules establishing
15 minimum requirements for reporting allegations of abuse and
16 neglect and initiating, conducting, and completing
17 investigations. The promulgated rules shall clearly set
18 forth that in instances where 2 or more State agencies could
19 investigate an allegation of abuse or neglect, the Inspector
20 General shall not conduct an investigation that is redundant
21 to an investigation conducted by another State agency. The
22 rules shall establish criteria for determining, based upon
23 the nature of the allegation, the appropriate method of
24 investigation, which may include, but need not be limited to,
25 site visits, telephone contacts, or requests for written
26 responses from agencies. The rules shall also clarify how
27 the Office of the Inspector General shall interact with the
28 licensing unit of the Department of Human Services in
29 investigations of allegations of abuse or neglect. Any
30 allegations or investigations of reports made pursuant to
31 this Act shall remain confidential until a final report is
32 completed. The resident or patient who allegedly was abused
33 or neglected and his or her legal guardian shall be informed
34 by the facility or agency of the report of alleged abuse or

1 neglect. Final reports regarding unsubstantiated or unfounded
2 allegations shall remain confidential, except that final
3 reports may be disclosed pursuant to Section 6 of this Act.

4 The Inspector General shall be appointed for a term of 4
5 years.

6 (b) The Inspector General shall within 24 hours after
7 receiving a report of suspected abuse or neglect determine
8 whether the evidence indicates that any possible criminal act
9 has been committed. If he determines that a possible criminal
10 act has been committed, or that special expertise is required
11 in the investigation, he shall immediately notify the
12 Department of State Police. The Department of State Police
13 shall investigate any report indicating a possible murder,
14 rape, or other felony. All investigations conducted by the
15 Inspector General shall be conducted in a manner designed to
16 ensure the preservation of evidence for possible use in a
17 criminal prosecution and to insure protection of the
18 constitutional rights of the persons who are the subject of
19 the investigation.

20 (b-5) The Inspector General shall make a determination
21 to accept or reject a preliminary report of the investigation
22 of alleged abuse or neglect based on established
23 investigative procedures. Notice of the Inspector General's
24 determination must be given to the person or persons alleged
25 to have been responsible for abuse or neglect and to the
26 facility or agency. The person or persons and the facility
27 or agency alleged to have been responsible for abuse or
28 neglect may request clarification or reconsideration based on
29 additional information. For cases where the allegation of
30 abuse or neglect is substantiated, the Inspector General
31 shall require the facility or agency to submit a written
32 response. The written response from a facility or agency
33 shall address in a concise and reasoned manner the actions
34 that the agency or facility will take or has taken to protect

1 the resident or patient from abuse or neglect, prevent
2 reoccurrences, and eliminate problems identified and shall
3 include implementation and completion dates for all such
4 action.

5 (c) The Inspector General shall, within 10 calendar days
6 after the transmittal date of a completed investigation where
7 abuse or neglect is substantiated or administrative action is
8 recommended, provide a complete report on the case to the
9 Secretary of Human Services and to the agency in which the
10 abuse or neglect is alleged to have happened. The complete
11 report shall include a written response from the agency or
12 facility operated by the State to the Inspector General that
13 addresses in a concise and reasoned manner the actions that
14 the agency or facility will take or has taken to protect the
15 resident or patient from abuse or neglect, prevent
16 reoccurrences, and eliminate problems identified and shall
17 include implementation and completion dates for all such
18 action. The Secretary of Human Services shall accept or
19 reject the response and establish how the Department will
20 determine whether the facility or program followed the
21 approved response. The Secretary may require Department
22 personnel to visit the facility or agency for training,
23 technical assistance, programmatic, licensure, or
24 certification purposes. Administrative action, including
25 sanctions, may be applied should the Secretary reject the
26 response or should the facility or agency fail to follow the
27 approved response. The facility or agency shall inform the
28 resident or patient and the legal guardian whether the
29 reported allegation was substantiated, unsubstantiated, or
30 unfounded. There shall be an appeals process for any person
31 or agency that is subject to any action, including public
32 reporting, based upon ~~on~~ a recommendation or upon a finding
33 of abuse or neglect or recommendations.

34 (d) The Inspector General may recommend to the

1 Departments of Public Health and Human Services sanctions to
2 be imposed against mental health and developmental
3 disabilities facilities under the jurisdiction of the
4 Department of Human Services for the protection of residents,
5 including appointment of on-site monitors or receivers,
6 transfer or relocation of residents, and closure of units.
7 The Inspector General may seek the assistance of the Attorney
8 General or any of the several State's attorneys in imposing
9 such sanctions.

10 (e) The Inspector General shall establish and conduct
11 periodic training programs for Department employees
12 concerning the prevention and reporting of neglect and abuse.

13 (f) The Inspector General shall at all times be granted
14 access to any mental health or developmental disabilities
15 facility operated by the Department, shall establish and
16 conduct unannounced site visits to those facilities at least
17 once annually, and shall be granted access, for the purpose
18 of investigating a report of abuse or neglect, to any
19 facility or program funded by the Department that is subject
20 under the provisions of this Section to investigation by the
21 Inspector General for a report of abuse or neglect.

22 (g) Nothing in this Section shall limit investigations
23 by the Department of Human Services that may otherwise be
24 required by law or that may be necessary in that Department's
25 capacity as the central administrative authority responsible
26 for the operation of State mental health and developmental
27 disability facilities.

28 (h) This Section is repealed on January 1, 2002.
29 (Source: P.A. 90-252, eff. 7-29-97; 90-512, eff. 8-22-97;
30 90-655, eff. 7-30-98; 91-169, eff. 7-16-99.)

31 (210 ILCS 30/6.6) (from Ch. 111 1/2, par. 4166.6)
32 (Section scheduled to be repealed on January 1, 2002)
33 Sec. 6.6. Subpoenas; testimony; penalty. The Inspector

1 General shall have the power to subpoena witnesses and compel
2 the production of books and papers pertinent to an
3 investigation authorized by this Act, provided that the power
4 to subpoena or to compel the production of books and papers
5 shall not extend to the person or documents of a labor
6 organization or its representatives insofar as the person or
7 documents of a labor organization relate to the function of
8 representing an employee subject to investigation under this
9 Act. Mental health records of patients shall be confidential
10 as provided under the Mental Health and Developmental
11 Disabilities Confidentiality Act. Personnel records of
12 employees of facilities and agencies shall be confidential as
13 provided under the Personnel Record Review Act. Any person
14 who fails to appear in response to a subpoena or to answer
15 any question or produce any books or papers pertinent to an
16 investigation under this Act, except as otherwise provided in
17 this Section, or who knowingly gives false testimony in
18 relation to an investigation under this Act is guilty of a
19 Class A misdemeanor.

20 This Section is repealed on January 1, 2002.

21 (Source: P.A. 91-169, eff. 7-16-99.)